

Subpart D—Reexamination of Patents

SOURCE: 46 FR 29185, May 29, 1981, unless otherwise noted.

CITATION OF PRIOR ART

§ 1.501 Citation of prior art in patent files.

(a) At any time during the period of enforceability of a patent, any person may cite to the Patent and Trademark Office in writing prior art consisting of patents or printed publications which that person states to be pertinent and applicable to the patent and believes to have a bearing on the patentability of any claim of a particular patent. If the citation is made by the patent owner, the explanation of pertinency and applicability may include an explanation of how the claims differ from the prior art. Citations by the patent owner under § 1.555 and by a reexamination requester under either § 1.510 or § 1.535 will be entered in the patent file during a reexamination proceeding. The entry in the patent file of citations submitted after the date of an order to reexamine pursuant to § 1.525 by persons other than the patent owner, or a reexamination requester under either § 1.510 or § 1.535, will be delayed until the reexamination proceedings have been terminated.

(b) If the person making the citation wishes his or her identity to be excluded from the patent file and kept confidential, the citation papers must be submitted without any identification of the person making the submission.

(c) Citation of patents or printed publications by the public in patent files should either:

(1) Reflect that a copy of the same has been mailed to the patent owner at the address as provided for in § 1.33(c); or in the event service is not possible

(2) Be filed with the Office in duplicate.

REQUEST FOR REEXAMINATION

§ 1.510 Request for reexamination.

(a) Any person may, at any time during the period of enforceability of a patent, file a request for reexamination

by the Patent and Trademark Office of any claim of the patent on the basis of prior art patents or printed publications cited under § 1.501. The request must be accompanied by the fee for requesting reexamination set in § 1.20(c).

(b) Any request for reexamination must include the following parts:

(1) A statement pointing out each substantial new question of patentability based on prior patents and printed publications.

(2) An identification of every claim for which reexamination is requested, and a detailed explanation of the pertinency and manner of applying the cited prior art to every claim for which reexamination is requested. If appropriate the party requesting reexamination may also point out how claims distinguish over cited prior art.

(3) A copy of every patent or printed publication relied upon or referred to in paragraph (b) (1) and (2) of this section accompanied by an English language translation of all the necessary and pertinent parts of any non-English language patent or printed publication.

(4) The entire specification (including claims) and drawings of the patent for which reexamination is requested must be furnished in the form of cut-up copies of the original patent with only a single column of the printed patent securely mounted or reproduced in permanent form on one side of a separate paper. A copy of any disclaimer, certificate of correction, or reexamination certificate issued in the patent must also be included.

(5) A certification that a copy of the request filed by a person other than the patent owner has been served in its entirety on the patent owner at the address as provided for in § 1.33(c). The name and address of the party served must be indicated. If service was not possible, a duplicate copy must be supplied to the Office.

(c) If the request does not include the fee for requesting reexamination or all of the parts required by paragraph (b) of this section, the person identified as requesting reexamination will be so notified and given an opportunity to complete the request within a specified time. If the fee for requesting reexamination has been paid but the defect in the request is not corrected within the